

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ORACLE AMERICA, INC.,  
Plaintiff,

v.

GOOGLE INC.,  
Defendant.

No. C 10-03561 WHA

**ORDER PARTIALLY  
GRANTING AND PARTIALLY  
DENYING LEAVE TO FILE  
MOTION FOR SUMMARY  
JUDGMENT ON INDIRECT  
INFRINGEMENT**


Defendant requests leave to file a motion for partial summary judgment regarding plaintiff's allegations of indirect infringement under 35 U.S.C. 271(c) and 35 U.S.C. 271(f) (Dkt. No. 312). Plaintiff opposes defendant's request (Dkt. Nos. 321, 323). Having considered the submissions from both sides, the request is **GRANTED IN PART AND DENIED IN PART**.

As to the allegations under 35 U.S.C. 271(f), the request is **GRANTED**. The motion must be filed by **SEPTEMBER 8, 2011**, and it must be noticed for a hearing on the normal 35-day track. The brief, opposition, and reply brief each may be no more than ten pages. Plaintiff's counsel state that "it may be possible for the parties to resolve the 271(f) issue without judicial intervention" (Dkt. No. 323). Plaintiff's counsel remain free to negotiate a resolution of this issue, but in the meantime, defendant may file its motion.

As to the allegations under 35 U.S.C. 271(c), the request is **DENIED**. The proposed motion directed at those allegations does not appear likely to materially narrow the issues for trial. This denial is without prejudice to the same non-infringement arguments being raised at trial.

**IT IS SO ORDERED.**

Dated: August 19, 2011.

  
WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE